

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

_____)	
)	
RICHARD BROWN <i>et alia</i> ,)	
)	
Plaintiffs,)	
)	
v.)	C.A. NO. 05-10188-MEL
)	
SUFFOLK COUNTY,)	
Defendant.)	
_____)	

and

_____)	
)	
GIUSEPPE MAROTTA <i>et al.</i> ,)	
)	
Plaintiff)	
)	
v.)	C.A. NO. 05-10032-MEL
)	
SUFFOLK COUNTY,)	
Defendant)	
_____)	

JOINT PRETRIAL MEMORANDUM

I. NAMES AND ADDRESSES OF COUNSEL

For the Plaintiffs: Daniel W. Rice
Glynn, Landry, Harrington & Rice
10 Forbes Road
Braintree, MA 02184
(781) 849-8479

For the Defendant: Russell T. Homsy
Suffolk County Sheriff's Department

20 Bradston Street
Boston, MA 02118
(617) 961-6535

II. WHETHER CASE IS TO BE TRIED BY JUDGE OR JURY

This case will be tried by a judge.

III. SUMMARY OF PARTIES' POSITIONS

PLAINTIFFS

The Defendant's converted in 1999 to a new payroll system software program, Peoplesoft, where the differentials and incentives were not included in the calculation of the Plaintiffs' overtime rates. After the conversion, the Defendant based the Plaintiffs' overtime pay on their straight-time wages, and paid the differentials separately. Moreover, under 29 U.S.C. § 255(a), the statute of limitations for calculating back pay will date back a minimum of three years from the date each Plaintiff consented to sue the Defendant in this action.

IV. FACTS ESTABLISHED BY PLEADING OR ADMISSION OF COUNSEL

1. The FLSA applies to the employment practices at dispute in this action.
2. The Plaintiffs are members of collective bargaining units, and the terms of their employment are set forth in a series of collective bargaining agreements.

V. CONTESTED ISSUES OF FACT

None.

VI. JURISDICTIONAL ISSUES

None.

VII. ISSUES OF LAW, INCLUDING EVIDENTIARY QUESTIONS

None.

VIII. REQUESTED AMENDMENTS TO THE PLEADINGS

None.

**IX. ADDITIONAL MATTERS TO AID IN THE DISPOSITION OF THIS
MATTER**

*Plaintiffs' Designation of Witnesses Whose Testimony The Plaintiffs
Anticipate Might Be Presented By Deposition*

The Plaintiffs anticipate they might present evidence via the deposition transcripts, pursuant to Fed. Rule Civ. P. Rule 32(a)(1), of the following current and former managers of the Defendant:

Charles Abate

Michael Cawley

Michael Harris

Maura McDonough

Thomas Yotts

The Plaintiffs incorporate by reference the portions of the transcripts of these witnesses referenced in their Motion for Summary Judgment as proffered testimony, but reserve the right to enter other portions.

In addition, the Plaintiffs reserve the right to enter the deposition transcript of John Scaduto, pursuant to Fed. Rule Civ. P. Rule 32(a)(4) (unavailability). Scaduto's deposition has been noticed for Monday, January 21, 2008. Mr. Scaduto is presently

domiciled and employed in Florida, but will be in Massachusetts on January 21, 2008, though departing to Florida late that day. All relevant portions of his testimony will be offered at trial.

X. PROBABLE LENGTH OF TRIAL

The parties estimate that the trial will last approximately one week if it is bifurcated as to liability and damages. If it is not, the trial could last several months.

XI. WITNESSES

Plaintiffs' Witnesses

WITNESSES EXPECTED TO BE PRESENT

Charles Abate
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Christopher Boujoukas
Bridgewater, MA
(617) 799-2635

James Breslin
74 Mill Rd
Hampton, NH 03842-3333
(603) 926-7563

Andrea J. Cabral
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Michael Cawley
14 Glide St
Dorchester, MA 02122-2112
(617) 288-1452

Timothy Frates
Suffolk County Sheriff's Department

20 Bradston Street
Boston, MA 02118
(617) 635-1100
(781) 924-1234

Sally Glora
City Auditor
City of Boston
New City Hall
Boston, MA
(617) 635-4671

Michael Harris
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Bryan Kaiser
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Elizabeth Keally
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Cornell Lewis
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Maura McDonough
28 Travis St,
Allston, MA 02134
(781) 416-0627

John Murphy
14 Dyer Ave.
Salem, New Hampshire 03079

Jennifer Springer

Coordinator
AFSCME Council 93, AFL-CIO
8 Beacon Street
Boston, MA 02108

Brian Stack
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Captain John Sullivan
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

William Sweeney
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Viktor Theiss
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Thomas Yotts
95 Freeman St
Quincy, MA 02170-2019
(617) 786-1252

WITNESSES THAT MAY BE CALLED IF THE NEED ARISES

Keeper of the Records
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Keeper of the Records
City Auditor
City of Boston
New City Hall
Boston, MA

(617) 635-4671

Gary Bolles
South Boston, MA
307 Bolton St
South Boston, MA
617-268-0134

Richard Brown
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Thomas Flynn
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Michelle Gibbons
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Cynthia McManus
340 Turnpike Street
Canton, MA 02021
800 882 2056

Robert Murphy
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Michael Simpson
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Larry Williams
Suffolk County Sheriff's Department
20 Bradston Street

Boston, MA 02118
(617) 635-1100

All Plaintiffs Who Have Filed Consents in these Actions

Defendants Witnesses

WITNESSES EXPECTED TO BE PRESENT

Sally Glora
City of Boston
One City Hall Plaza
Boston, MA 02110
(617) 635-4000

Patricia Murphy
City of Boston
One City Hall Plaza
Boston, MA 02110
(617) 635-4000

Mark MacDonnell
City of Boston
One City Hall Plaza
Boston, MA 02110
(617) 635-4000

Diane O'Malley
City of Boston
One City Hall Plaza
Boston, MA 02110
(617) 635-4000

William Sweeney
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Michael Harriss
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Maura McDonough
Suffolk County Sheriff's Department

20 Bradston Street
Boston, MA 02118
(617) 635-1100

Thomas Yotts
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Michael Cawley
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Elizabeth Keally
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02118
(617) 635-1100

Witnesses that the Defendant may call if the need arises:
All witnesses identified by the Plaintiff

Defendant's Expert Witnesses that will be called:

Erik Skramstad
PriceWaterhouseCoopers
125 High Street
Boston, MA 02110
(617) 530-6156

John McCann
PriceWaterhouseCoopers
125 High Street
Boston, MA 02110
(617) 530-6156

XII. EXHIBITS

Plaintiff's Exhibits

DOCUMENTS EXPECTED TO BE ENTERED

1. Grievance History of grievance alleging underpayment for time caring for canine, filed by John Murphy.
2. Seminar materials introduced at Terry Fleck Canine seminar.
3. Notes of Labor/Management Meetings concerning payment of Academy cadets.
4. All Collective Bargaining Agreements for Local 3643 and Local 419, 1995 to present (portions of which are included with the Plaintiff's Motion for Summary Judgment, and listed below).
5. All documents included in the Plaintiffs' Motion for Partial Summary Judgment, including:

Exhibit 1A, CBA for Local 419, July 2001 to June 2003

Exhibit 1B, Local 419, July 1, 1999 to June 30, 2000

Exhibit 1C, Local 419, July 1, 2000 to June 30, 2003

Exhibit 1D, Local 419, July 2005 to June 2008

Exhibit 2A, Local 3643, July 1, 2000 to June 30, 2003

Exhibit 2B, Local 3643, July 1, 1998 to June 30, 2000

Exhibit 5, Letter from Tsei Notifying Unions of Peoplesoft Conversion

Exhibit 6, Memorandum of Michael Cawley

Exhibit 9, McDonough E-Mail to Jordan, March 9, 2000

Exhibit 10, McDonough E-Mail to Murphy, April 10, 2000

Exhibit 11, Yotts Affidavit

DOCUMENTS TO BE ENTERED IF THE NEED ARISES

1. All payroll records of all plaintiffs from January 1, 2000 to the present.
2. All documents identified in the Defendant's Automatic Disclosures.
3. All documents requested by the Plaintiffs in their Request for Production of Documents, whether or not produced.

4. All documents to be subpoenaed for trial from the Defendant's Keeper of the Records.
5. Official Record, AFSCME Council 93, AFL-CIO v. Suffolk County Sheriff's Department, MUP-01-2911
6. Suffolk County Sheriff's Department K-9 Policies.

Defendants Exhibits

DOCUMENTS EXPECTED TO BE ENTERED

1. PeopleSoft Payroll Files
2. Kronos Payroll Records
3. PriceWaterhouseCoopers Payroll Analysis Reports
4. All documents identified in the Plaintiff's Automatic Disclosures.
5. All documents included in the Plaintiffs' Motion for Partial Summary Judgment, including:

Exhibit 1A, CBA for Local 419, July 2001 to June 2003
Exhibit 1B, Local 419, July 1, 1999 to June 30, 2000
Exhibit 1C, Local 419, July 1, 2000 to June 30, 2003
Exhibit 1D, Local 419, July 2005 to June 2008
Exhibit 2A, Local 3643, July 1, 2000 to June 30, 2003
Exhibit 2B, Local 3643, July 1, 1998 to June 30, 2000
Exhibit 5, Letter from Tsei Notifying Unions of Peoplesoft Conversion
Exhibit 6, Memorandum of Michael Cawley
Exhibit 9, McDonough E-Mail to Jordan, March 9, 2000
Exhibit 10, McDonough E-Mail to Murphy, April 10, 2000
Exhibit 11, Yotts Affidavit

RIGHT TO SUPPLEMENT

The parties agree that they reserve the right to supplement or amend this
Memorandum.

Respectfully submitted,

THE PLAINTIFFS

By their attorneys,

\s\ Daniel W. Rice
Daniel W. Rice
Glynn, Landry, Harrington & Rice, LLP
10 Forbes Road
Braintree, MA 02184
(781) 849-8479
BBO # 559269

Respectfully submitted,

THE DEFENDANT

By their attorneys,

\s\ Russell T. Homsy
Russell T. Homsy
Suffolk County Sheriff's Department
20 Bradston Street
Boston, MA 02110
(617) 961-6535
BBO # 641327